

### **REMARKS**

Claims 1-21 are currently pending. Claims 12-21 are similar to claims 1-10, but specifically mention that the units inventory are advertising and like changes to provide a set of claims that specifically identify that the subject matter is the sale of advertising unit. Support for the new set of claims can be found throughout the specification, as should be readily apparent. Claim 8 has been amended to reflect an aspect of the present invention.

The Office Action includes a rejection of claims 1-11 under 35 U.S.C. §102(e) as allegedly being anticipated by the Grosh et al. patent (U.S. Patent No. 6,195,646). This rejection is respectfully traversed.

#### **The Grosh et al Patent**

The Grosh et al. patent discloses a system and method for facilitating the valuation of the purchase of digital information. To the reading of the undersigned, it is a method of maximizing the price on the sale of digital information such as songs over the Internet. It involves a series of pricing models that include or exclude various different dimensions or factors. As most succinctly explained in the example appearing at column 9 lines 5-27, the Grosh et al. system provides valuation scheme where a song can be valued based on a variable set of criteria. For instance, if the song is very popular, it has a high demand. If the song is part of a larger album but the song in demand is the only popular song on the album, then the volume of song data can be a consideration. Similarly, if the song is new, then a sense of the timeliness of the sale applies. The buyers prior history can also be a factor as well

as the quality of the digital media (e.g., MP3 versus a different compression format). Competition for the sale of the song and delivery speed are also factors that can weigh as to the valuation of the song in a particular sale.

This is, however, very different from the present invention.

### **The Present Invention**

The present invention relates to a method and system for providing enterprise management and bundling of perishable inventory that is susceptible to value-based pricing to achieve a maximum revenue. For instance, a perishable inventory can be advertised when its on TV, radio, outdoor billboards and the like, entertainment industry events, not only prices set but multiple variables in the inventory control which not only sets price, but also controls the size and availability of inventory as well as providing performance data such that the buyer can select from one of several scenarios that most suits his or her needs. This is explained, for instance, at paragraph 31 where it is disclosed that the electronic central information storage system 110 of an exemplary embodiment collects the influencing factors for the probability and price sensitivity of a particular advertising buyer 120. The central information storage system collects business rules from inventory scaling (increasing or decreasing the number of units in response to demand), available inventory to sell, budgetary goal information, advertisement payment history (e.g., indication on what the buyer has been willing to pay in the past, promptness of payment, collection problems, and other factors that might tend to indicate the price sensitivity of the buyer and/or the cost of doing business with the buyer). Station performance data

(e.g. Arbitron ratings for radio, Nielsen ratings for television, Traffic Audit Bureau for outdoor advertising or any other appropriate performance measurement service or system) is fed to a scenario planar 130 to be presented to the advertising customer through a seller, for instance.

It is believe that various distinguishing criteria of the present invention are reflected in the currently pending claims. For instance, claim 1 recites an inventory management system that includes a performance measurement system for measuring the performance of a medium in which the units of inventory are used. The Office suggests that the performance measurement is the quality dimension disclosed in the Grosh et al patent. However, the Grosh patent merely discloses that the quality relates to the audio or recording quality, which in turn relates to the compression algorithms being employed and the bandwidth of the download, for instance. In other words, it is the quality of the product that is being referred to in the Grosh et al patent. In marked contrast, claim 1 recites that *performance measurement system for measuring the performance of a medium in which units of inventory are used*. This language is fully supported by such services as the Arbitron rating system for radio, mentioned above. This language of claim 1 cannot read on the mere quality of a product.

Additionally, claim 1 recites a central information storage system for receiving information from the *performance measurement system* and revenue maximization system to generate *scenarios wherein various combinations of units are grouped together to meet a buyers criteria*. Claim 1 also recites a scenario planner *to display the various scenarios generated by the central information storage system*. In

marked contrast, the outward appearance of the Grosh patent to the buyer is simply a number representing a price based on a selected pricing model. The pricing model would not normally be seen or displayed and, it is respectfully submitted that even if one were to examine, for some reason, the various pricing models, doing so would not amount to a "scenario planner" wherein various combinations of units are grouped together to meet a buyers criteria. At best, a series of different prices might be presented for these are neither scenarios as defined in the claims nor would they normally be displayed.

The dependent claims add features which further separate the present invention from the applied art. For instance, claim 2 recites that the performance measurement system receives information related to the extent of an audience to which the units are exposed. This is different than the number of hits within a particular time period one illustrates demand for a particular item rather than the popularity of a medium in which the units of inventory are used. While the number of hits on a given website is used as a performance measurement of the website, there is no indication in the Grosh et al. patent this measure of the website, in contrast to the demand for product is used in the pricing scheme.

The other dependent claims have many other details not disclosed in the applied art.

Independent claim 8 recites *inter alia* obtaining available inventory information (digital media can be reproduced over the internet virtually without limitation and there is no sense that it would be artificially limited in the Grosh et al system) and generating at least two scenarios comprising a plurality of units based on information

obtained from the buyer, wherein the scenarios meet the buyers demands and reflects said available inventory and the prices.. Instead, the Grosh et al patent presents a price that might have been generated by any of several pricing models.

Independent method claim 11 is specific to the purchaser or units of opportunities to advertise, which is not found in the Grosh et al. patent.

New claims 12-20 are specifically tailored to the concept of selling advertisement units which again are not mentioned or disclosed in the Grosh et al. patent.

In light of the foregoing, Applicants respectfully request reconsideration and allowance of the above-captioned application. Should any residual issues exist, the Examiner is invited to contact the undersigned at the number listed below.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

Date: August 9, 2004

By: 

Charles F. Wieland III  
Registration No. 33,096

P.O. Box 1404  
Alexandria, Virginia 22313-1404  
(703) 836-6620